

### REMARKS/ARGUMENTS

This Amendment is being filed in response to the Final Office Action dated June 9, 2009. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 2-10 and 12-17 are pending in the Application. Claims 15-17 are added by this amendment. Claims 8, 12 and 14 are independent claims.

In the Final Office Action, claims 2-4, 6-10 and 12-14 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,069,853 to Novotny ("Novotny") in view of U.S. Patent No. 5,311,500 to Higuchi ("Higuchi"). Claim 5 is rejected under 35 U.S.C. §103(a) over Novotny in view of Higuchi in further view of U.S. Patent No. 6,058,094 to Davis ("Davis"). These rejections are respectfully traversed. It is respectfully submitted that claims 2-10 and 12-17 are allowable over Novotny in view of Higuchi alone, and in view of Davis for at least the following reasons.

It is undisputed that Novotny (emphasis added) "fails to teach at least one of the first recording stack has deposited a transparent hydrophobic layer on a surface of the first recording stack or the second optical surface has deposited a transparent hydrophobic layer on a surface of the second optical surface remote from the focused radiation beam, wherein the transparent hydrophobic layer is deposited to extend substantially in a direction of the first optical surface." (See, Final Office Action, page 3.) Higuchi is cited to supply that which is missing from Novotny, however, it is respectfully submitted that reliance on Higuchi is misplaced.

While FIG. 2 of Higuchi does show a moisture barrier 5a, as recognized by the Final Office Action, the moisture barrier is provided on side surfaces of the layers of the medium. Higuchi is clear that the (emphasis added) "moisture barrier layer 5a ... is provided on the outer surface of the

substrate 1, on all of the edge faces of the substrate 1, on all of the edge faces of a plurality of the layer 2, 3 and 4 provided on the substrate 1, and on the outer surface of the second dielectric layer 4." (See, Higuchi, Col. 4, lines 60-65.)

It is respectfully submitted that the optical storage medium of claim 8 is not anticipated or made obvious by the teachings of Novotny in view of Higuchi. For example, Novotny in view of Higuchi does not teach, disclose or suggest, an optical storage medium that amongst other patentable elements, comprises (illustrative emphasis added) "a first optical surface most remote from the substrate having deposited thereon a transparent hydrophobic layer that has a refractive index n and has a thickness smaller than  $0.5 \lambda/n$ , wherein the transparent hydrophobic layer is deposited on a surface of the recording stack and extends substantially in a recording direction of the recording stack on the surface of the recording stack on which the transparent hydrophobic layer is deposited" as recited in claim 8 and as similarly recited in each of claims 12 and 14.

It is admitted in the Final Office Action that Novotny fails to teach, disclose or suggest this recitation of the claims and Higuchi merely shows the moisture barrier on an edge of the layers.

Davis is introduced for allegedly showing elements of the dependent claims and as such, does nothing to cure the deficiencies in Novotny in view of Higuchi.

Based on the foregoing, the Applicants respectfully submit that independent claims 8, 12 and 14 are patentable over Novotny in view of Higuchi and notice to this effect is earnestly solicited. Claims 2-10, 13 and 15-17 respectively depend from one of claims 8, 12 and 14 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

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